

REMARKS

Claims 1, 3, and 5-33 are pending in the application. Claims 2 and 4 have been canceled without prejudice. Claims 1, 3, 5, 9, 18-20, 22, 23, 28 and 30 have been amended, and new claims 31-33 added to further clarify Applicants' invention. Claims 1, 9, 22, 23, 28 and 30 are the independent claims.

The following remarks, in conjunction with the above presented amendments, are believed to be fully responsive to the Office Action mailed on July 1, 2004.

Claims 1-30 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,144,838 to Sheehan ("*Sheehan*"). *Sheehan* relates to standardized test evaluation. It is directed to a method of diagnostic assessment and proficiency scaling of results of tests such as the Scholastic Aptitude Test ("SAT"). The method purports to identify combinations of skills required to solve various test items, and then groups the items according to a prediction rule based upon skill classifications. The method of *Sheehan* does not submit a series of queries about a user to an entity and then generate theory-based individualized feedback items and transmit them to the evaluatee based on the entity's responses.

Independent claim 1 is directed to a method of conducting an assessment of an evaluatee. The method includes, for example, presenting a plurality of queries regarding the evaluatee to an entity, receiving a response to each of the plurality of queries, and applying the responses to a plurality of rules so that each rule has one of a satisfied state and an unsatisfied state, where a portion of the plurality of rules are interdependent. The method further includes (i) generating theory-based individualized feedback items based on the state of the plurality of rules, where each feedback item is associated with at least one of the plurality of rules having the satisfied state, and (ii) transmitting the feedback items to the evaluatee. Lastly, the method further provides that the plurality of queries seek

information as to the strengths and weaknesses of the evaluatee as to one or more identified performance areas.

A noteworthy feature of the method of claim 1 is the generation of theory-based individualized feedback items and their transmission back to the evaluatee. The method of claim 1 is used in managerial evaluations of an evaluatee. For example, the method allows an evaluating entity to provide useful feedback to the evaluatee that can help the evaluatee further improve his, her or its, as the case may be, performance in the identified performance areas which the queries are probative of. The method of claim 1 does not take as input responses of a testee to standardized educational assessment questions and then report a proficiency score or level to a third party based on which responses were “correct.” The method recited in claim 1 operates on responses by an entity to questions *about an evaluatee and reports individualized feedback to the evaluatee themselves*.

A similar feature is recited in corresponding claims 9, 22, 23, 28 and 30.

The method of claim 1 can be used, for example, by a management group to evaluate the group dynamics of a team trying to accomplish a given assigned business task.. Specification at ¶ 37. The management group can, for example, provide feedback to the team related to the actions/approach that would help them meet the particular business need involved. *Id.* at ¶ 38. The management group can even be the members of the team itself and the evaluatee the team as a whole. *Id.* Once the responses to the queries are received, specific feedback in terms of specific actions that should be taken based on the business situation can be delivered. *Id.* at ¶ 45. This is in striking contrast to conventional diagnostic methods such as are described in *Sheehan*.

Thus, *Sheehan* generates a summary of student performance by proficiency scaling of educational test results. The results are either correct or incorrect answers to questions comprising educational tests. *Sheehan* does not teach delivery of specific advice as to what specific actions a

testee or a group of testees should take to solve a particular problem or accomplish a given performance goal. In *Sheehan*, the results of the analysis are simply a categorization of scores in various groups based upon the number of correct answers submitted and on correlations between them.

Accordingly, Applicants respectfully submit that amended claim 1 is clearly not taught or suggested by *Sheehan*.

The remaining pending claims (including new claims 31-33) are each dependent upon one of independent claims 1, 9, 22, 23, 28 and 30, and are therefore also not taught or suggested by *Sheehan*. Thus, for at least the same reasons that each of independent claims 1, 9, 22, 23, 28 and 30 are patentable over the cited prior art, each of the remaining claims is also urged as patentable over the cited prior art.

CONCLUSION

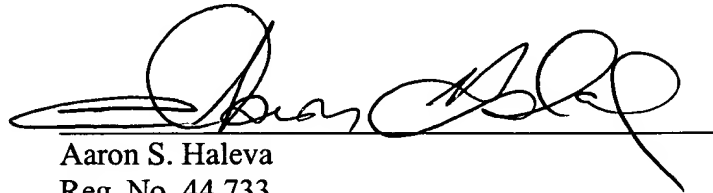
In view of the amendments and remarks herein, Applicants believe that each ground for rejection or objection made in the instant application has been successfully overcome or obviated, and that all pending claims are now in condition for allowance. Withdrawal of the Examiner's rejections and objections, and allowance of the current application are respectfully requested.

The Examiner is invited to telephone the undersigned in order to resolve any issues that might arise and to promote the efficient examination of the current application.

No additional fee is believed necessary for entry of this Amendment. However, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 50-0540.

Dated: November 11, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Aaron S. Haleva', is written over a horizontal line.

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